IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1499 of 2003 (S/S)

Ram Dutta Upadhaya
S/o Late Sri Jagnath Upadhaya
R/o Ram Ganga Wireless Station Chaukhutiya
Post Office-Ganai
District -Almora .....Petitioner

Versus

1. State of U.P. through Principal Secretary
   Energy, U.P. Government, Lucknow
   U.P.
2. U.P. State Electricity Board
   Shakti Bhawan, Lucknow
   Through its Chairman
3. Chief Engineer, Ram Ganga Project
   Kalagarh, Irrigation Department
   U.P. Nal Koop, Civil Lines
   Moradabad
4. Chief Engineer, Irrigation Department
   (Karya Prabharit Adhishathan Prakishth)
   Irrigation Department, U.P.
   Lucknow, U.P.
5. Superintending Engineer, Ram Ganga Dam
   Circle, Kalagarh, District Pauri Garhwal

.....Respondents.

Shri Abdul Wahid, learned counsel for the respondent
Smt. Bina Pande, Learned Standing Counsel for the State.

Hon'ble Prafulla C. Pant, J

Heard learned counsel for the parties.

2. By means of this petition, the petitioner, has sought mandamus, commanding respondents to regularize his services, as wireless operator. The petitioner has further sought quashing of Annexure-3 to the writ petition, which is order whereby the representation of the petitioner to pay scale of 3200-85-4900 is declined. In view of the principle of law laid down in ***Secretary, State of Karnataka Vs. Uma Devi, reported in (2006) 4 Supreme Court Cases, Pg. 01,***

wherein it has been held that the workers on daily wages or the persons who get employed without undergoing regular selection process, should not be permitted to be absorbed or regularised against the constitutional scheme of public employment, this Court is not inclined to issue direction to regularize services of the petitioners, as such, the petition is liable to be dismissed.

3. Para-9 of the counter affidavit filed by the respondents, shows that no post of wireless operator exists in the pay scale, mentioned by the petitioner, as such he cannot be regularized without there being a vacant post for that purpose. Therefore, petition is liable to be dismissed.

4. The writ petition is dismissed. Interim stay order, if any, stands vacated. Urgency application No. 477 of 2006 also stands disposed of. (All pending applications also stand disposed of).

Dt. 18.11.2006 **(Prafulla C. Pant, J)**

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